STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2012 75646

Issue No.: 1038, 5026, 5030

Case No.:

Hearing Date: December 6, 2012

County: Oakland County DHS (04)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Admini strative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on December 6, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included Exercises.

<u>ISSUE</u>

Did the Department properly close the Claim ant's Medical Assistance G2S case due to excess assets?

Did the Department properly deny the Claimant's State Emergency Relief application?

Did the Department properly clos e the Claimant's Food Assistance (FAP) due to failur e to verify information?

FINDINGS OF FACT

The Administrative Law Judge, based on t he competent, material, and substantial evidence on the whole record, finds as material fact:

- 1. The Claimant applied for SER on or about August 20, 2012. In the application the Claimant sought energy services assi stance for electricity. The Claimant listed her monthly income at \$1118. Under assets she indica ted her checking after paying monthly expense was only a few dollars and her savings cont ained \$4000 for smoke damage repairs from her insurance company. Exhibit 2
- 2. The Department did not verify the chec king/savings account information at the time it denied the SER application.

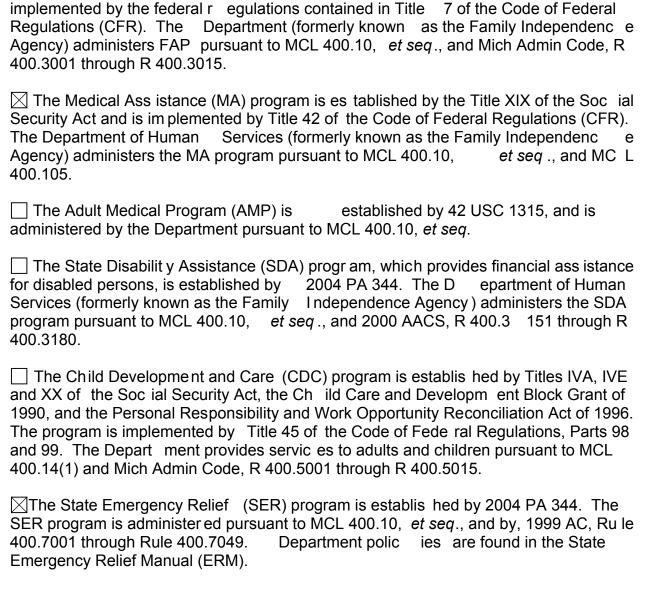
- 3. The Department issue an SER Decision Notice on August 20, 2012 denying the Claimant's request for non-heat electric ity citing ERM 103 stating your income/asset copayment is equal to or greater than the amount needed to resolve the emergency. No budget or further explanation of the SER application was provided at the hearing. Exhibit 3.
- 4. The Department also issued a notice of case action dated August 20, 2012 and closed the Claimant's Medical Assistance, G2S, effective September 1, 2012 based on the asset information provided by the Claimant in the SER application. Exhibit 1
- 5. The Department did not verify the Claimant's assets by issuance of a verification checklist requesting the Claimant's credit union checking and savings statement. Prior to closing her MA G2S.
- 6. The Claim ant was also sent a veri fication chec klist on August 20, 2012 requesting that she verify information regar ding her eligibility for Medicare Cost Share and the Food Assistanc e Program by providing the Claimant's checking account and savings account balance by providing a current statement. The verification was due on August 30, 2012.
- 7. The claim ant provided the information on August 31, 2012 but spoke to her caseworker on August 30, 2012 indicating that the information would be provided on August 31, 2012 and believed based on the conversation that there was no problem submitting the information on that date.
- 8. On September 6, 2012 the Department closed the Claimant's Medicare savings program and her food assistance program for failure to verify information requested. Exhibit 5
- 9. The Claimant requested a hearing by hearing reques t dated August 31, 2012 indicating that she had received 3 notices of case action denying all her benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Br idges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and W ork Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, et seq. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, et seq., and Mich Admin Code, R 400.3101 through R 400.3131. FI Preplaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is



SER Application Denial.

In this case the Department denied the Claimant 's SER application for energy electric assistance. The Department did not present a budget at the hearing and could not otherwise explain why the SER application was denied. The SER Notice of Decision cited ERM 103 which covers application procedures and also included the statement your income asset copayment is equal to or greater than the amount needed to resolve the emergency. Based upon the proofs presented at the hearing as well as the testimony of the witness, it is determined that the Department did not sustain its burden of proof to demonstrate that the SER application was properly denied as no budget was provided, nor was policy cited or provided which would give the Department's basis and rationale for the denial.

Medical Assistance Denial

The Department closed the Claimant's o ngoing medical assist ance GS2 based upon the fact that it determined that the Cla imant had excess assets based on the SE application information provided by the Clai mant. The Department did not r equest that the Claimant verify the asset information prior to closing the Claimant's case and had no verification based upon bank account savings or checking information at the time it closed the Claimant's case. BAM 130 requi res that verification be obtained an indicates that verification is us ually required at applic ation/redetermination and for a reported change affecting elig ibility or ben efit level. D epartment of Human Services Bridges Administrative Manual, BAM 130 pp 1, (2012). In this case the Departmen should have sought verification to determine the lowest monthly balance as required by BEM 400 which provides asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. Department of H uman Services Bridges Eligibility Manual (BEM) 400 pp. 4, (2012).

Based upon the proofs presented at the hearing as well as the testimony of the witness, it is determined that the Depar tment did not verify the Clai mant's assets and should have done so before it closed the Claimant's Medical Assistance.

FAP and Medicare Savings Program closure for failure to verify information

The Department sent a verification checklist—to the C laimant requiring her to provide verification of her checking—and savings ac count information by August 30, 2012. On August 30, 2012 the Claimant called and spoke directly to her caseworker to advise that the information would be provided on Augus—t 31, 2012. The Claimant provided the information to the Department on August—31, 2012. The Department closed t—he Claimant's case for failure to verify information. Exhibit 5. Based upon the fact that the Department was advised that—the Claimant was filing th—e information on August 31, 2012 and did not adv ise the Claimant that it would close her case if verifications were efiled on August 31, 2012 the—Department should not have closed the Claimant's FAP case. BAM 130 provides that the Department send a negative action notice when:

The client indic ates refusal to provi de a verification, or the time period given has elapsed and the client has not made a reasonab le effort to provide it. BAM 130, *id*, pp 5 (2012)

Under the facts and testimony provided by the parties and the Claimant's specific credible testimony that she spoke with her caseworker regarding the verification, which testimony indicates that the Claimant was not refusing to verify information and was making a reasonable effort, the Department should not have closed the Claimant's FAP case. It must also be noted that the Department was also unable to locate the Claimant's file and was unable to confirm any information contained in the file.

DECISION AND ORDER

of Low and for the recent stated on the record finds that the Department
of Law, and for the reasons stated on the record, finds that the Department did act properly when did not act properly when it denied the Claimant's
SER application, and closed her Medical Assistance G2S due to excess assets and when it closed the Claimant's FAP case and Medical Savings Program case for failure to verify information.
Accordingly, the Department's \square AMP \square FIP \boxtimes FAP \boxtimes MA \square SDA \square CDC \boxtimes SER decision is \square AFFIRMED \boxtimes REVERSED for the reasons stated on the record and in this Decision.
oxtimes THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- 1. The Department shall re register the Claimant's SER application dated August 15, 2012 for energy services assistance and shall determine eligibility for the SER and shall issue a proper decision notice stating the reason for the decision and the correct policy relied upon by the Department in making the decision. The Department may verify information it deems necessary to issue the decision.
- 2. The Department shall initiate reinstatement of the Claimant's Medical Assistance GP2S case retroactive to September 1, 2012 and shall determine whether the Claimant's assets exceed the asset limit or if any assets are properly excluded in accordance with Department policy. The Department may verify information it deems necessary to determine ongoing eligibility.
- 3. The Department shall initia te reinstatement of the CI aimant's Medicare Savings program case and her Food Assistance c ase retroactive to the date of closure and shall determine her eligibility for the program. The Dep artment may verify information it deems necessary to make a determination regarding eligibility with regard to the asset verification it s ought for bank account c hecking/savings information.
- 4. If the Department determines that the Claimant is eligib le for benefits, the Department shall s upplement the Claim ant for any benefits she was other wise entitled to receive in accordance with Department policy.

Lynn M. Ferris`

Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: <u>December 13, 2012</u> Date Mailed: <u>December 13, 2012</u> **NOTICE**: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative Hearings

Re consideration/Rehearing Request P. O. Box 30639 Lansing, Michigan 48909-07322

LMF/cl

